

# Proposed Wireless Legislation

## § 56-484.12. Definitions.

As used in this article, unless the context requires a different meaning:

"Automatic location identification" or "ALI" means a telecommunications network capability that enables the automatic display of information defining the geographical location of the telephone used to place a wireless Enhanced 9-1-1 call.

"Automatic number identification" or "ANI" means a telecommunications network capability that enables the automatic display of the telephone number used to place a wireless Enhanced 9-1-1 call.

"Board" means the Wireless E-911 Services Board created pursuant to this article.

"Chief Information Officer" or "CIO" means the Chief Information Officer appointed pursuant to § 2.2-2005.

"Coordinator" means the Virginia Public Safety Communications Systems Coordinator employed by the Division.

"CMRS" means mobile telecommunications service as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

"CMRS provider" means an entity authorized by the Federal Communications Commission to provide CMRS within the Commonwealth of Virginia.

"Division" means the Division of Public Safety Communications created in § 2.2-2031.

"Enhanced 9-1-1 service" or "E-911" means a service consisting of telephone network features and PSAPs provided for users of telephone systems enabling such users to reach a PSAP by dialing the digits "9-1-1." Such service automatically directs 9-1-1 emergency telephone calls to the appropriate PSAPs by selective routing based on the geographical location from which the emergency call originated and provides the capability for ANI and ALI features.

"FCC order" means Federal Communications Commission Order 94-102 (61 Federal Register 40348) and any other FCC order that affects the provision of E-911 service to CMRS customers.

"Local exchange carrier" means any public service company granted a certificate to furnish public utility service for the provision of local exchange telephone service pursuant to Chapter 10.1 (§ 56-265.1 et seq.) of Title 56.

"Place of primary use" has the meaning attributed in subsection M of § 58.1-3812.

"Public safety answering point" or "PSAP" means a facility (i) equipped and staffed on a 24-hour basis to receive and process E-911 calls or (ii) that intends to receive and process

E-911 calls and has notified CMRS providers in its jurisdiction of its intention to receive and process such calls.

“VoIP Service” means interconnected voice over Internet protocol service as defined in FCC Order 05-116, Part 9 of Title 47 of the Code of Federal Regulations 9.3, as may be amended.

"Wireless E-911 fund" means a dedicated fund consisting of all moneys collected pursuant to the wireless E-911 surcharge, as well as any additional funds otherwise allocated or donated to the wireless E-911 fund.

"Wireless E-911 service" means the E-911 service required to be provided by CMRS providers pursuant to the FCC order.

"Wireless E-911 surcharge" means a monthly fee of \$0.75 billed by each CMRS provider and CMRS reseller on each CMRS number of a customer with a place of primary use in Virginia; provided, however, that any fee collected or paid pursuant to the third paragraph of subsection B of § 56-484.17 is not required to be billed.

§ 56-484.13. Wireless E-911 Services Board; membership; terms; compensation.

A. The Wireless E-911 Services Board is hereby created, which shall promote and assist:

a. in the statewide development, deployment, and maintenance of enhanced wireless E-911, VoIP E-911 and any other future communications technologies accessing E-911 for emergency purposes:

b. in the development and deployment of enhanced wireline emergency telecommunications services and technologies only in specific local jurisdictions that were not wireline E-911 capable by July 1, 2000; and-

c. VITA and other stakeholder agencies, in the development and deployment of a statewide public safety network that will support future E-911 and other public safety applications.

The Board shall exercise the powers and duties conferred in this article.

B. The Board shall consist of 14 members as follows: the Chief Information Officer, who shall serve as chairman of the Board; the Comptroller, who shall serve as the treasurer of the Board; and the following twelve members to be appointed by the Governor: one member representing the Virginia Department of Emergency Management, one member representing the Virginia State Police, three members representing telecommunications companies offering local exchange, wireless or VoIP service in Virginia, two county, city or town PSAP directors or managers, one Virginia sheriff, one chief of police, one fire chief, one emergency medical services manager, and one finance officer of a county, city, or town.

C. All members appointed by the Governor shall serve five-year terms. The CIO and the Comptroller shall serve terms coincident with their terms of office. No gubernatorial appointee shall serve more than two consecutive terms.

D. A majority of the Board shall constitute a quorum. The Board shall at least quarterly, or at the call of its chairman.

E. Members of the Board shall serve without compensation; however, members of the Board shall be reimbursed for expenses as provided in §§ 2.2-2813 through 2.2-2826.

F. The Division shall provide staff support to the Board. The Geographic Information Network Division created in § 2.2-2026 and the Virginia Department of Transportation shall provide such technical advice as the Board requires.

#### § 56-484.14. Powers and duties of Wireless E-911 Services Board.

The Board shall have the power and duty to:

1. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, including purchase agreements payable from (i) the Wireless E-911 Fund and (ii) other moneys appropriated for the provision of enhanced 9-1-1 services.
2. Pursue all legal remedies to enforce any provision of this article, or any contract entered into pursuant to this article.
3. Develop a comprehensive, statewide enhanced 9-1-1 plan for wireless E-911, VoIP E-911 and any other future communications technologies accessing E-911 for emergency purposes. In constructing and periodically updating this plan as appropriate, the Board shall monitor trends and advances in enhanced wireless, VoIP and other emergency telecommunications technologies, plan and forecast future needs for these enhanced technologies, and formulate strategies for the efficient and effective delivery of enhanced 9-1-1 services in the future.
4. Promote the implementation of the statewide enhanced 9-1-1 plan by providing grant funding to PSAPs that support the plan.
5. Develop and adopt regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for the expenditure of funds for ~~funding~~ enhanced wireless and of other appropriated funds for emergency telecommunication services in the Commonwealth.
6. Grant such extensions of time for compliance with the provisions of § 56-484.16 as the Board deems appropriate.
7. Take all steps necessary to inform the public of the use of the digits "9-1-1" as the designated emergency telephone number and the use of the digits "#-7-7" as a designated non-emergency telephone number.
8. Report annually to the Governor, the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission on (i) the state of enhanced 9-1-1 services in the Commonwealth, (ii) the impact of, or need for, legislation affecting enhanced 9-1-1 services in the Commonwealth, and (iii) the need for changes in the E-911 funding mechanism provided to the Board, as appropriate.

9. Provide advisory technical assistance to PSAPs and state and local law enforcement, and fire and emergency medical service agencies, upon request.
10. Collect, distribute, and withhold moneys from the Wireless E-911 Fund as provided in this article.
11. Develop a comprehensive single, statewide electronic addressing database to support geographic data and statewide base map data programs pursuant to § 2.2-2027.
12. Receive such funds as may be appropriated for purposes consistent with this article and such gifts, donations, grants, bequests, or other funds as may be received from, applied for or offered by either public or private sources.
13. Manage other moneys appropriated for the provision of enhanced emergency telecommunications services.
14. Perform all acts necessary, convenient or desirable to carrying out the purposes of this article.
15. Drawing from the work of E-911 professional organizations, in its sole discretion, publish best practices for PSAPs. These best practices shall be voluntary and recommended by a subcommittee composed of PSAP representatives.

§ 56-484.15. Wireless Carrier E-911 Cost Recovery Subcommittee established.

- A. There is hereby established a Wireless Carrier E-911 Cost Recovery Subcommittee of the Board. The Subcommittee shall (i) meet only to review and evaluate grant applications submitted by CMRS providers for the provision of wireless E-911 service and (ii) review only those documents necessary to determine whether costs submitted by CMRS providers are for the provision of wireless E-911 service.
- B. The Subcommittee shall consist of the following six members from the Board: the representative of the Virginia State Police; the two PSAP directors or managers; the finance officer of a county, city or town; the CIO, who shall serve as the Subcommittee's chairman; and the Comptroller.
- C. Staff to the Subcommittee shall be provided by the Division of Public Safety Communications created pursuant to § 2.2-2031.
- D. Unless otherwise ordered by a court of competent jurisdiction, no member or staff of the Subcommittee shall release or disclose the contents of documents used to determine whether costs submitted by CMRS providers are reasonable and direct to the provision of wireless E-911 service.

§ 56-484.16. Local emergency telecommunications requirements; use of digits "9-1-1".

- A. On or before July 1, 2003, every county, city or town in the Commonwealth shall be served by an E-911 system, unless an extension of time has been granted by the Board.

B. The digits "9-1-1" shall be the designated emergency telephone number in Virginia. No public safety agency shall advertise or otherwise promote the use of any number for emergency response service other than "9-1-1".

§ 56-484.17. Wireless E-911 Fund; uses of Fund; enforcement; audit required.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Wireless E-911 Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Except as provided in § 2.2-2031, moneys in the Fund shall be used for the purposes stated in subsections C through D. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chief Information Officer of the Commonwealth.

B. Each CMRS provider shall collect a wireless E-911 surcharge from each of its customers whose place of primary use is within the Commonwealth. In addition, the wireless E-911 surcharge shall be imposed on wireless customers who purchase prepaid CMRS service, subject to the provisions in this subsection. However, no surcharge shall be imposed on federal, state and local government agencies. A payment equal to all wireless E-911 surcharges shall be remitted within 30 days to the Board for deposit in the Fund. Each CMRS provider and CMRS reseller may retain an amount equal to three percent of the amount collected to defray the costs of collecting the surcharges. State and local taxes shall not apply to any wireless E-911 surcharge collected from customers. Surcharges collected from customers who do not purchase CMRS service on a prepaid basis shall be subject to the provisions of subsection K of § 58.1-3812.

For CMRS customers who do not purchase CMRS service on a prepaid basis, the CMRS provider and CMRS reseller shall collect the surcharge through regular periodic billing.

For CMRS customers who purchase CMRS service on a prepaid basis, the wireless E-911 surcharge shall be determined according to one of the following methodologies:

a. The CMRS provider and CMRS reseller shall collect, on a monthly basis, the wireless E-911 surcharge from each active prepaid customer whose account balance is equal to or greater than the amount of the surcharge; or

b. The CMRS provider and CMRS reseller shall divide its total earned prepaid wireless telephone revenue with respect to prepaid customers in the Commonwealth within the monthly E-911 reporting period by \$50, multiply the quotient by the surcharge amount, and pay the resulting amount to the Board without collecting a separate charge from its prepaid customers for such amount; or

c. The CMRS provider and CMRS reseller shall collect the surcharge at the point of sale.

Collection of the wireless E-911 surcharge from or with respect to prepaid customers shall not reduce the sales price for purposes of taxes which are collected at point of sale.

C. Fifty percent of the Wireless E-911 fund shall be distributed on a monthly basis to the PSAPs according to the percentage of recurring wireless E-911 funding received by the PSAP as determined by the Board. The Board shall calculate the distribution percentage for each PSAP at the start of each fiscal year based on the cost and call load data from the previous fiscal year and implement this percentage by October 1 of the current year. The other fifty percent of the fund shall be distributed to PSAP, CMRS providers or on behalf of PSAPs and CMRS providers based on grant requests received by the Board each fiscal year. The Board shall establish criteria for receiving and making grants from Fund, including procedures for determining the amount of a grant and payment schedule, however the grants must be to the benefit of wireless E-911. Any Wireless E-911 funding that has not been committed by the Board by the end of the fiscal year shall be distributed to the PSAPs based on the same distribution percentage used during the fiscal year in which the funding was collected; however, the Board may retain some or all of this uncommitted funding for an identified funding need in the next fiscal year.

D. After the end of each fiscal year, on a schedule adopted by the Board, the Board shall audit the grant funding received by all recipients to ensure it was utilized in accordance with the grant requirements. After July 1, 2006, the Board shall determine whether qualifying payments made the previous fiscal year to PSAP operators and CMRS providers during the preceding fiscal year exceeded or were less than the actual wireless E-911 PSAP costs or wireless E-911 CMRS costs of any PSAP operator or CMRS provider. Each funding recipient shall provide such verification of such costs as may be requested by the Board. Any overpayment shall be refunded to the Board or credited to qualifying payments during the then current fiscal year, on such schedule as the Board shall determine. If payments are less than the actual costs reported, the Board may include the additional funding in the then current fiscal year.

E. The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the Wireless E-911 Fund. The cost of such audit shall be borne by the Board and be payable from the Wireless E-911 Fund, as appropriate. The Board shall furnish copies of the audits to the Governor, the Public Safety Subcommittees of the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission.

F. The special tax authorized by § 58.1-3813.1 shall not be imposed on consumers of CMRS.